IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8243 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE D.A.MEHTA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

AMULKHRAI RANCHHODJI DESAI

Versus

GOVINDBHAI BHANABHAI

Appearance:

1. Special Civil Application No. 8243 of 1991

MR SHIRISH JOSHI for Petitioner No. 1

NOTICE SERVED for Respondents No. 1-5

CORAM : MR.JUSTICE D.A.MEHTA

Date of decision: 07/03/2002

ORAL JUDGEMENT

1 The petitioner has challenged by way of this petition under Article 227 of the Constitution of India, the order passed by the Gujarat State Co.operative Tribunal in Election Petition No. 2 of 1991 on 23/10/1991.

2 It appears that election was to be held for the post of Director of the Co.operative Society, viz. Shri Sayan Vibhag Sahakari Khand Udyog Mandali Ltd.respondent No.5. As per bye-law No.45, the Managing Committee is comprised of 12 members out of which 11 members are to be the producer members and one member is a non producer member. The said bye-law no.45 read with Election Rule 7 provides that from amongst 11 producer members 4 producer members shall retire at the end of the first year, 4 members shall retire at the end of the second year and 3 members shall retire at the end of the third year,thus, having paved way for election to the said post which would fall vacant in rotation. The admitted facts are that in 1991, 3 producer members were to retire and election was to be held. The said election having been held had been challenged by way of the aforesaid Election Petition before the Gujarat State Co.operative Tribunal. The Tribunal rejected the Election Petition on 23/10/1991 and against the said order the present petition has been filed.

3 It is not necessary to deal with the merits of the matter in view of the fact that the period of 3 years has elapsed after the election was held and the Election Petition was dismissed. Further more, no interim relief was granted when the petition was admitted.

4 Incidentally, it may be noted that when the matter was admitted on 12/11/1991 it was ordered to be heard with SCA No. 8857/90. The papers of the said matter were called for and it is found that the subject matter of the said petition is entirely different and has no bearing to the controversy at hand. Even otherwise the said petition being SCA No.8857/90 has been dismissed for default on 8/11/2001.

5 In light of this situation the petition is rejected as having become infructuous. Rule is discharged. There shall be no order as to costs.

Sd/-

(D.A.Mehta, J)

m.m.bhatt